SENATE, No. 3681

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 13, 2019

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator CHRISTOPHER "KIP" BATEMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

Co-Sponsored by:
Senator Codey

SYNOPSIS
Requires, by energy year 2050, all electric power sold in NJ by each electric power supplier and basic generation service provider to be from zero-carbon sources.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 5/17/2019)
AN ACT concerning carbon emissions from electric power generation and amending P.L.1999, c.23.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read as follows:

38. a. The board shall require an electric power supplier or basic generation service provider to disclose on a customer's bill or on customer contracts or marketing materials, a uniform, common set of information about the environmental characteristics of the energy purchased by the customer, including, but not limited to:

(1) Its fuel mix, including categories for oil, gas, nuclear, coal, solar, hydroelectric, wind and biomass, or a regional average determined by the board;

(2) Its emissions, in pounds per megawatt hour, of sulfur dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant that the board may determine to pose an environmental or health hazard, or an emissions default to be determined by the board; and

(3) Any discrete emission reduction retired pursuant to rules and regulations adopted pursuant to P.L.1995, c.188.

b. Notwithstanding any provisions of the "Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment and public hearing, interim standards to implement this disclosure requirement, including, but not limited to:

(1) A methodology for disclosure of emissions based on output pounds per megawatt hour;

(2) Benchmarks for all suppliers and basic generation service providers to use in disclosing emissions that will enable consumers to perform a meaningful comparison with a supplier's or basic generation service provider's emission levels; and

(3) A uniform emissions disclosure format that is graphic in nature and easily understandable by consumers. The board shall periodically review the disclosure requirements to determine if revisions to the environmental disclosure system as implemented are necessary.

Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the “Administrative Procedure Act.”

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
c. (1) The board may adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment, an emissions portfolio standard applicable to all electric power suppliers and basic generation service providers, upon a finding that:

(a) The standard is necessary as part of a plan to enable the State to meet federal Clean Air Act or State ambient air quality standards; and

(b) Actions at the regional or federal level cannot reasonably be expected to achieve the compliance with the federal standards.

(2) By July 1, 2009, the board shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), a greenhouse gas emissions portfolio standard to mitigate leakage or another regulatory mechanism to mitigate leakage applicable to all electric power suppliers and basic generation service providers that provide electricity to customers within the State. The greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage shall:

(a) Allow a transition period, either before or after the effective date of the regulation to mitigate leakage, for a basic generation service provider or electric power supplier to either meet the emissions portfolio standard or other regulatory mechanism to mitigate leakage, or to transfer any customer to a basic generation service provider or electric power supplier that meets the emissions portfolio standard or other regulatory mechanism to mitigate leakage. If the transition period allowed pursuant to this subparagraph occurs after the implementation of an emissions portfolio standard or other regulatory mechanism to mitigate leakage, the transition period shall be no longer than three years; and

(b) Exempt the provision of basic generation service pursuant to a basic generation service purchase and sale agreement effective prior to the date of the regulation.

Unless the Attorney General or the Attorney General’s designee determines that a greenhouse gas emissions portfolio standard would unconstitutionally burden interstate commerce or would be preempted by federal law, the adoption by the board of an electric energy efficiency portfolio standard pursuant to subsection g. of this section, a gas energy efficiency portfolio standard pursuant to subsection h. of this section, or any other enhanced energy efficiency policies to mitigate leakage shall not be considered sufficient to fulfill the requirement of this subsection for the adoption of a greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage.

d. Notwithstanding any provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, after
notice, provision of the opportunity for comment, and public hearing, renewable energy portfolio standards that shall require:

(1) that two and one-half percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class II renewable energy sources;

(2) beginning on January 1, 2020, that 21 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2025, 35 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources, and by January 1, 2030, 50 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources. Notwithstanding the requirements of this subsection, the board shall ensure that the cost to customers of the Class I renewable energy requirement imposed pursuant to this subsection shall not exceed nine percent of the total paid for electricity by all customers in the State for energy year 2019, energy year 2020, and energy year 2021, respectively, and shall not exceed seven percent of the total paid for electricity by all customers in the State in any energy year thereafter. In calculating the cost to customers of the Class I renewable energy requirement imposed pursuant to this subsection, the board shall not include the costs of the offshore wind energy certificate program established pursuant to paragraph (4) of this subsection. The board shall take any steps necessary to prevent the exceedance of the cap on the cost to customers including, but not limited to, adjusting the Class I renewable energy requirement.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection;

(3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on June 1, 2033, that requires the following number or percentage, as the case may be, of kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system in this State:

<table>
<thead>
<tr>
<th>Year</th>
<th>Kilowatt-hours (Gwhrs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2011</td>
<td>306 Gwhrs</td>
</tr>
<tr>
<td>EY 2012</td>
<td>442 Gwhrs</td>
</tr>
<tr>
<td>EY 2013</td>
<td>596 Gwhrs</td>
</tr>
</tbody>
</table>
No later than 180 days after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations to close the SREC program to new applications upon the attainment of 5.1 percent of the kilowatt-hours sold in the State by each electric power supplier and each basic generation provider from solar electric power generators connected to the distribution system. The board shall continue to consider any application filed before the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board shall provide for an orderly and transparent mechanism that will result in the closing of the existing SREC program on a date certain but no later than June 1, 2021.

No later than 24 months after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall complete a study that evaluates how to modify or replace the SREC program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State. The board shall submit the written report thereon to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The board shall consult with public utilities, industry experts, regional grid operators, solar power providers and financiers, and other State agencies to determine whether the board can modify the SREC program such that the program will:

- continually reduce, where feasible, the cost of achieving the solar energy goals set forth in this subsection;
- provide an orderly transition from the SREC program to a new or modified program;
- develop megawatt targets for grid connected and distribution systems, including residential and small commercial rooftop systems, community solar systems, and large scale behind the meter systems, as a share of the overall solar energy requirement, which targets the board may modify periodically based on the cost, feasibility, or social impacts of different types of projects;
- establish and update market-based maximum incentive payment caps periodically for each of the above categories of solar electric power generation facilities;
- encourage and facilitate market-based cost recovery through long-term contracts and energy market sales; and
- where cost recovery is needed for any portion of an efficient solar electric power generation facility when costs are not recoverable through wholesale market sales and direct payments from customers, utilize competitive processes such as competitive procurement and long-term contracts where possible to ensure such recovery, without exceeding the maximum incentive payment cap for that category of facility.

The board shall approve, conditionally approve, or disapprove any application for designation as connected to the distribution system of a solar electric power generation facility filed with the board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), no more than 90 days after receipt by the board of a completed application. For any such application for a project greater than 25 kilowatts, the board shall require the applicant to post a notice escrow with the board in an amount of $40 per kilowatt of DC nameplate capacity of the facility, not to exceed $40,000. The notice escrow amount shall be reimbursed to the applicant in full upon either denial of the application by the board or upon commencement of commercial operation of the solar electric power generation facility. The escrow amount shall be forfeited to the State if the facility is designated as connected to the distribution system pursuant to this subsection but does not commence commercial operation within two years following the date of the designation by the board.

For all applications for designation as connected to the distribution system of a solar electric power generation facility filed with the board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

(a) The board shall determine an appropriate period of no less than 120 days following the end of an energy year prior to which a provider or supplier must demonstrate compliance for that energy year with the annual renewable portfolio standard;

(b) No more than 24 months following the date of enactment of P.L.2012, c.24, the board shall complete a proceeding to investigate approaches to mitigate solar development volatility and prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to the Legislature, detailing its findings and
recommendations. As part of the proceeding, the board shall evaluate other techniques used nationally and internationally;

c) The solar renewable portfolio standards requirements in this paragraph shall exempt those existing supply contracts which are effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.) from any increase beyond the number of SRECs mandated by the solar renewable energy portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers’ existing supply contracts shall not be construed to lower the Statewide solar sourcing requirements set forth in this paragraph. Such incremental requirements that would have otherwise been imposed on exempt providers shall be distributed over the providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all providers are subject to the new requirement in a manner that is competitively neutral among all providers and suppliers. Notwithstanding any rule or regulation to the contrary, the board shall recognize these new solar purchase obligations as a change required by operation of law and implement the provisions of this subsection in a manner so as to prevent any subsidies between suppliers and providers and to promote competition in the electricity supply industry.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection, or compliance with the requirements of this subsection may be demonstrated to the board by suppliers or providers through the purchase of SRECs.

The renewable energy portfolio standards adopted by the board pursuant to paragraphs (1) and (2) of this subsection shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the “Administrative Procedure Act.”

The renewable energy portfolio standards adopted by the board pursuant to this paragraph shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 30 months after such filing, and shall, thereafter, be amended, adopted or readopted by the board in accordance with the “Administrative Procedure Act”; and

(4) within 180 days after the date of enactment of P.L.2010, c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind renewable energy certificate program to require that a percentage of the kilowatt hours sold in this State by each electric power supplier
and each basic generation service provider be from offshore wind
energy in order to support at least 3,500 megawatts of generation
from qualified offshore wind projects.

The percentage established by the board pursuant to this
paragraph shall serve as an offset to the renewable energy portfolio
standard established pursuant to paragraph (2) of this subsection
and shall reduce the corresponding Class I renewable energy
requirement.

The percentage established by the board pursuant to this
paragraph shall reflect the projected OREC production of each
qualified offshore wind project, approved by the board pursuant to
section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the
commercial operation start date of the qualified offshore wind
project which production projection and OREC purchase
requirement, once approved by the board, shall not be subject to
reduction.

An electric power supplier or basic generation service provider
shall comply with the OREC program established pursuant to this
paragraph through the purchase of offshore wind renewable energy
certificates at a price and for the time period required by the board.
In the event there are insufficient offshore wind renewable energy
certificates available, the electric power supplier or basic generation
service provider shall pay an offshore wind alternative compliance
payment established by the board. Any offshore wind alternative
compliance payments collected shall be refunded directly to the
ratepayers by the electric public utilities.

The rules established by the board pursuant to this paragraph
shall be effective as regulations immediately upon filing with the
Office of Administrative Law and shall be effective for a period not
to exceed 18 months, and may, thereafter, be amended, adopted or
readopted by the board in accordance with the provisions of the
seq.).

e. Notwithstanding any provisions of the “Administrative
Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
contrary, the board shall initiate a proceeding and shall adopt, after
notice, provision of the opportunity for comment, and public
hearing:

(1) net metering standards for electric power suppliers and basic
generation service providers. The standards shall require electric
power suppliers and basic generation service providers to offer net
metering at non-discriminatory rates to industrial, large
commercial, residential and small commercial customers, as those
customers are classified or defined by the board, that generate
electricity, on the customer's side of the meter, using a Class I
renewable energy source, for the net amount of electricity supplied
by the electric power supplier or basic generation service provider
over an annualized period. Systems of any sized capacity, as
measured in watts, are eligible for net metering. If the amount of
electricity generated by the customer-generator, plus any kilowatt
hour credits held over from the previous billing periods, exceeds the
electricity supplied by the electric power supplier or basic
generation service provider, then the electric power supplier or
basic generation service provider, as the case may be, shall credit
the customer-generator for the excess kilowatt hours until the end of
the annualized period at which point the customer-generator will be
compensated for any remaining credits or, if the customer-generator
chooses, credit the customer-generator on a real-time basis, at the
electric power supplier's or basic generation service provider's
avoided cost of wholesale power or the PJM electric power pool's
real-time locational marginal pricing rate, adjusted for losses, for
the respective zone in the PJM electric power pool. Alternatively,
the customer-generator may execute a bilateral agreement with an
electric power supplier or basic generation service provider for the
sale and purchase of the customer-generator's excess generation.
The customer-generator may be credited on a real-time basis, so
long as the customer-generator follows applicable rules prescribed
by the PJM electric power pool for its capacity requirements for the
net amount of electricity supplied by the electric power supplier or
basic generation service provider. The board may authorize an
electric power supplier or basic generation service provider to cease
offering net metering to customers that are not already net metered
whenever the total rated generating capacity owned and operated by
net metering customer-generators Statewide equals 5.8 percent of
the total annual kilowatt-hours sold in this State by each electric
power supplier and each basic generation service provider during
the prior one-year period;

(2) safety and power quality interconnection standards for Class
I renewable energy source systems used by a customer-generator
that shall be eligible for net metering.

Such standards or rules shall take into consideration the goals of
the New Jersey Energy Master Plan, applicable industry standards,
and the standards of other states and the Institute of Electrical and
Electronics Engineers. The board shall allow electric public
utilities to recover the costs of any new net meters, upgraded net
meters, system reinforcements or upgrades, and interconnection
costs through either their regulated rates or from the net metering
customer-generator;

(3) credit or other incentive rules for generators using Class I
renewable energy generation systems that connect to New Jersey's
electric public utilities' distribution system but who do not net
meter; and

(4) net metering aggregation standards to require electric public
utilities to provide net metering aggregation to single electric public
utility customers that operate a solar electric power generation
system installed at one of the customer's facilities or on property
owned by the customer, provided that any such customer is a State
entity, school district, county, county agency, county authority,
municipality, municipal agency, or municipal authority. The
standards shall provide that, in order to qualify for net metering
aggregation, the customer must operate a solar electric power
generation system using a net metering billing account, which
system is located on property owned by the customer, provided that:
(a) the property is not land that has been actively devoted to
agricultural or horticultural use and that is valued, assessed, and
taxed pursuant to the “Farmland Assessment Act of 1964,”
P.L. 1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
period prior to the effective date of P.L. 2012, c.24, provided,
however, that the municipal planning board of a municipality in
which a solar electric power generation system is located may
waive the requirement of this subparagraph (a), (b) the system is not
an on-site generation facility, (c) all of the facilities of the single
customer combined for the purpose of net metering aggregation are
facilities owned or operated by the single customer and are located
within its territorial jurisdiction except that all of the facilities of a
State entity engaged in net metering aggregation shall be located
within five miles of one another, and (d) all of those facilities are
within the service territory of a single electric public utility and are
all served by the same basic generation service provider or by the
same electric power supplier. The standards shall provide that in
order to qualify for net metering aggregation, the customer's solar
electric power generation system shall be sized so that its annual
generation does not exceed the combined metered annual energy
usage of the qualified customer facilities, and the qualified
customer facilities shall all be in the same customer rate class under
the applicable electric public utility tariff. For the customer's
facility or property on which the solar electric generation system is
installed, the electricity generated from the customer's solar electric
generation system shall be accounted for pursuant to the provisions
of paragraph (1) of this subsection to provide that the electricity
generated in excess of the electricity supplied by the electric power
supplier or the basic generation service provider, as the case may
be, for the customer's facility on which the solar electric generation
system is installed, over the annualized period, is credited at the
electric power supplier's or the basic generation service provider's
avoided cost of wholesale power or the PJM electric power pool
real-time locational marginal pricing rate. All electricity used by
the customer's qualified facilities, with the exception of the facility
or property on which the solar electric power generation system is
installed, shall be billed at the full retail rate pursuant to the electric
public utility tariff applicable to the customer class of the customer
using the electricity. A customer may contract with a third party to
operate a solar electric power generation system, for the purpose of
net metering aggregation. Any contractual relationship entered into
for operation of a solar electric power generation system related to
net metering aggregation shall include contractual protections that
provide for adequate performance and provision for construction
and operation for the term of the contract, including any appropriate
bonding or escrow requirements. Any incremental cost to an
electric public utility for net metering aggregation shall be fully and
timely recovered in a manner to be determined by the board. The
board shall adopt net metering aggregation standards within 270
days after the effective date of P.L.2012, c.24.

Such rules shall require the board or its designee to issue a credit
or other incentive to those generators that do not use a net meter but
otherwise generate electricity derived from a Class I renewable
energy source and to issue an enhanced credit or other incentive,
including, but not limited to, a solar renewable energy credit, to
those generators that generate electricity derived from solar
technologies.

Such standards or rules shall be effective as regulations
immediately upon filing with the Office of Administrative Law and
shall be effective for a period not to exceed 18 months, and may,
thereafter, be amended, adopted or readopted by the board in
accordance with the provisions of the “Administrative Procedure
Act.”

f. The board may assess, by written order and after notice and
opportunity for comment, a separate fee to cover the cost of
implementing and overseeing an emission disclosure system or
emission portfolio standard, which fee shall be assessed based on an
electric power supplier's or basic generation service provider's share
of the retail electricity supply market. The board shall not impose a
fee for the cost of implementing and overseeing a greenhouse gas
emissions portfolio standard adopted pursuant to paragraph (2) of
subsection c. of this section.

g. The board shall adopt, pursuant to the “Administrative
Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
energy efficiency program in order to ensure investment in cost-
effective energy efficiency measures, ensure universal access to
to energy efficiency measures, and serve the needs of low-income
communities that shall require each electric public utility to
implement energy efficiency measures that reduce electricity usage
in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
Nothing in this subsection shall be construed to prevent an electric
public utility from meeting the requirements of this subsection by
contracting with another entity for the performance of the
requirements.

h. The board shall adopt, pursuant to the “Administrative
Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
efficiency program in order to ensure investment in cost-effective
energy efficiency measures, ensure universal access to energy
efficiency measures, and serve the needs of low-income
communities that shall require each gas public utility to implement
energy efficiency measures that reduce natural gas usage in the
State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
Nothing in this subsection shall be construed to prevent a gas public
utility from meeting the requirements of this subsection by
contracting with another entity for the performance of the
requirements.

i. After the board establishes a schedule of solar kilowatt-hour
sale or purchase requirements pursuant to paragraph (3) of
subsection d. of this section, the board may initiate subsequent
proceedings and adopt, after appropriate notice and opportunity for
public comment and public hearing, increased minimum solar
kilowatt-hour sale or purchase requirements, provided that the
board shall not reduce previously established minimum solar
kilowatt-hour sale or purchase requirements, or otherwise impose
constraints that reduce the requirements by any means.

j. The board shall determine an appropriate level of solar
alternative compliance payment, and permit each supplier or
provider to submit an SACP to comply with the solar electric
generation requirements of paragraph (3) of subsection d. of this
section. The value of the SACP for each Energy Year, for Energy
Years 2014 through 2033 per megawatt hour from solar electric
generation required pursuant to this section, shall be:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2014</td>
<td>$339</td>
</tr>
<tr>
<td>EY 2015</td>
<td>$331</td>
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<tr>
<td>EY 2016</td>
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<td>EY 2023</td>
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<tr>
<td>EY 2033</td>
<td>$128</td>
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</tbody>
</table>

The board may initiate subsequent proceedings and adopt, after
appropriate notice and opportunity for public comment and public
hearing, an increase in solar alternative compliance payments,
provided that the board shall not reduce previously established levels of solar alternative compliance payments, nor shall the board provide relief from the obligation of payment of the SACP by the electric power suppliers or basic generation service providers in any form. Any SACP payments collected shall be refunded directly to the ratepayers by the electric public utilities.

k. The board may allow electric public utilities to offer long-term contracts through a competitive process, direct electric public utility investment and other means of financing, including but not limited to loans, for the purchase of SRECs and the resale of SRECs to suppliers or providers or others, provided that after such contracts have been approved by the board, the board's approvals shall not be modified by subsequent board orders. If the board allows the offering of contracts pursuant to this subsection, the board may establish a process, after hearing, and opportunity for public comment, to provide that a designated segment of the contracts approved pursuant to this subsection shall be contracts involving solar electric power generation facility projects with a capacity of up to 250 kilowatts.

l. The board shall implement its responsibilities under the provisions of this section in such a manner as to:

1. place greater reliance on competitive markets, with the explicit goal of encouraging and ensuring the emergence of new entrants that can foster innovations and price competition;

2. maintain adequate regulatory authority over non-competitive public utility services;

3. consider alternative forms of regulation in order to address changes in the technology and structure of electric public utilities;

4. promote energy efficiency and Class I renewable energy market development, taking into consideration environmental benefits and market barriers;

5. make energy services more affordable for low and moderate income customers;

6. attempt to transform the renewable energy market into one that can move forward without subsidies from the State or public utilities;

7. achieve the goals put forth under the renewable energy portfolio standards;

8. promote the lowest cost to ratepayers; and

9. allow all market segments to participate.

m. The board shall ensure the availability of financial incentives under its jurisdiction, including, but not limited to, long-term contracts, loans, SRECs, or other financial support, to ensure market diversity, competition, and appropriate coverage across all ratepayer segments, including, but not limited to, residential, commercial, industrial, non-profit, farms, schools, and public entity customers.
n. For projects which are owned, or directly invested in, by a public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), the board shall determine the number of SRECs with which such projects shall be credited; and in determining such number the board shall ensure that the market for SRECs does not detrimentally affect the development of non-utility solar projects and shall consider how its determination may impact the ratepayers.

o. The board, in consultation with the Department of Environmental Protection, electric public utilities, the Division of Rate Counsel in, but not of, the Department of the Treasury, affected members of the solar energy industry, and relevant stakeholders, shall periodically consider increasing the renewable energy portfolio standards beyond the minimum amounts set forth in subsection d. of this section, taking into account the cost impacts and public benefits of such increases including, but not limited to:

(1) reductions in air pollution, water pollution, land disturbance, and greenhouse gas emissions;

(2) reductions in peak demand for electricity and natural gas, and the overall impact on the costs to customers of electricity and natural gas;

(3) increases in renewable energy development, manufacturing, investment, and job creation opportunities in this State; and

(4) reductions in State and national dependence on the use of fossil fuels.

p. Class I RECs and ORECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two energy years. SRECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following four energy years.

q. (1) During the energy years of 2014, 2015, and 2016, a solar electric power generation facility project that is not: (a) net metered; (b) an on-site generation facility; (c) qualified for net metering aggregation; or (d) certified as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, as provided pursuant to subsection t. of this section may file an application with the board for approval of a designation pursuant to this subsection that the facility is connected to the distribution system. An application filed pursuant to this subsection shall include a notice escrow of $40,000 per megawatt of the proposed capacity of the facility. The board shall approve the designation if: the facility has filed a notice in writing with the board applying for designation pursuant to this subsection, together with the notice escrow; and the capacity of the facility, when added to the capacity of other facilities that have been previously approved for designation prior to the facility's filing under this subsection, does not exceed 80 megawatts in the aggregate for each year. The capacity of any one solar electric power supply project
approved pursuant to this subsection shall not exceed 10 megawatts.
No more than 90 days after its receipt of a completed application
for designation pursuant to this subsection, the board shall approve,
conditionally approve, or disapprove the application. The notice
escrow shall be reimbursed to the facility in full upon either
rejection by the board or the facility entering commercial operation,
or shall be forfeited to the State if the facility is designated pursuant
to this subsection but does not enter commercial operation pursuant
to paragraph (2) of this subsection.

(2) If the proposed solar electric power generation facility does
not commence commercial operations within two years following
the date of the designation by the board pursuant to this subsection,
the designation of the facility shall be deemed to be null and void,
and the facility shall not be considered connected to the distribution
system thereafter.

(3) Notwithstanding the provisions of paragraph (2) of this
subsection, a solar electric power generation facility project that as
of May 31, 2017 was designated as “connected to the distribution
system,” but failed to commence commercial operations as of that
date, shall maintain that designation if it commences commercial
operations by May 31, 2018.

r. (1) For all proposed solar electric power generation facility
projects except for those solar electric power generation facility
projects approved pursuant to subsection q. of this section, and for
all projects proposed in energy year 2019 and energy year 2020, the
board may approve projects for up to 50 megawatts annually in
auctioned capacity in two auctions per year as long as the board is
accepting applications. If the board approves projects for less than
50 megawatts in energy year 2019 or less than 50 megawatts in
energy year 2020, the difference in each year shall be carried over
into the successive energy year until 100 megawatts of auctioned
capacity has been approved by the board pursuant to this
subsection. A proposed solar electric power generation facility that
is neither net metered nor an on-site generation facility, may be
considered “connected to the distribution system” only upon
designation as such by the board, after notice to the public and
opportunity for public comment or hearing. A proposed solar
power electric generation facility seeking board designation as
“connected to the distribution system” shall submit an application
to the board that includes for the proposed facility: the nameplate
capacity; the estimated energy and number of SRECs to be
produced and sold per year; the estimated annual rate impact on
ratepayers; the estimated capacity of the generator as defined by
PJM for sale in the PJM capacity market; the point of
interconnection; the total project acreage and location; the current
land use designation of the property; the type of solar technology to
be used; and such other information as the board shall require.
(2) The board shall approve the designation of the proposed solar power electric generation facility as “connected to the distribution system” if the board determines that:
(a) the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State;
(b) the approval of the designation of the proposed facility would not significantly impact the preservation of open space in this State;
(c) the impact of the designation on electric rates and economic development is beneficial; and
(d) there will be no impingement on the ability of an electric public utility to maintain its property and equipment in such a condition as to enable it to provide safe, adequate, and proper service to each of its customers.
(3) The board shall act within 90 days of its receipt of a completed application for designation of a solar power electric generation facility as “connected to the distribution system,” to either approve, conditionally approve, or disapprove the application. If the proposed solar electric power generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility as “connected to the distribution system” shall be deemed to be null and void, and the facility shall thereafter be considered not “connected to the distribution system.”

s. In addition to any other requirements of P.L.1999, c.23 or any other law, rule, regulation or order, a solar electric power generation facility that is not net metered or an on-site generation facility and which is located on land that has been actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, shall only be considered “connected to the distribution system” if (1) the board approves the facility’s designation pursuant to subsection q. of this section; or (2) (a) PJM issued a System Impact Study for the facility on or before June 30, 2011, (b) the facility files a notice with the board within 60 days of the effective date of P.L.2012, c.24, indicating its intent to qualify under this subsection, and (c) the facility has been approved as “connected to the distribution system” by the board. Nothing in this subsection shall limit the board’s authority concerning the review and oversight of facilities, unless such facilities are exempt from such review as a result of having been approved pursuant to subsection q. of this section.
t. (1) No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic
Development Authority, and, after notice and opportunity for public
comment and public hearing, complete a proceeding to establish a
program to provide SRECs to owners of solar electric power
generation facility projects certified by the board, in consultation
with the Department of Environmental Protection, as being located
on a brownfield, on an area of historic fill or on a properly closed
sanitary landfill facility, including those owned or operated by an
electric public utility and approved pursuant to section 13 of
P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
subsection shall be considered “connected to the distribution
system”, shall not require such designation by the board, and shall
not be subject to board review required pursuant to subsections q.
and r. of this section. Notwithstanding the provisions of section 3
of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
order to the contrary, for projects certified under this subsection, the
board shall establish a financial incentive that is designed to
supplement the SRECs generated by the facility in order to cover
the additional cost of constructing and operating a solar electric
power generation facility on a brownfield, on an area of historic fill
or on a properly closed sanitary landfill facility. Any financial
benefit realized in relation to a project owned or operated by an
electric public utility and approved by the board pursuant to section
13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
financial incentive established by the board pursuant to this
subsection, shall be credited to ratepayers. The issuance of SRECs
for all solar electric power generation facility projects pursuant to
this subsection shall be deemed “Board of Public Utilities financial
assistance” as provided under section 1 of P.L.2009, c.89 (C.48:2-
29.47).

(2) Notwithstanding the provisions of the “Spill Compensation
and Control Act,” P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
other law, rule, regulation, or order to the contrary, the board, in
consultation with the Department of Environmental Protection, may
find that a person who operates a solar electric power generation
facility project that has commenced operation on or after the
effective date of P.L.2012, c.24, which project is certified by the
board, in consultation with the Department of Environmental
Protection pursuant to paragraph (1) of this subsection, as being
located on a brownfield for which a final remediation document has
been issued, on an area of historic fill or on a properly closed
sanitary landfill facility, which projects shall include, but not be
limited to projects located on a brownfield for which a final
remediation document has been issued, on an area of historic fill or
on a properly closed sanitary landfill facility owned or operated by
an electric public utility and approved pursuant to section 13 of
P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
acquired on or after the effective date of P.L.2012, c.24 on which
such a solar electric power generation facility project is constructed
and operated, shall not be liable for cleanup and removal costs to
the Department of Environmental Protection or to any other person
for the discharge of a hazardous substance provided that:

(a) the person acquired or leased the real property after the
discharge of that hazardous substance at the real property;
(b) the person did not discharge the hazardous substance, is not
in any way responsible for the hazardous substance, and is not a
successor to the discharger or to any person in any way responsible
for the hazardous substance or to anyone liable for cleanup and
removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
23.11g);
(c) the person, within 30 days after acquisition of the property,
gave notice of the discharge to the Department of Environmental
Protection in a manner the Department of Environmental Protection
prescribes;
(d) the person does not disrupt or change, without prior written
permission from the Department of Environmental Protection, any
engineering or institutional control that is part of a remedial action
for the contaminated site or any landfill closure or post-closure
requirement;
(e) the person does not exacerbate the contamination at the
property;
(f) the person does not interfere with any necessary remediation
of the property;
(g) the person complies with any regulations and any permit the
Department of Environmental Protection issues pursuant to section
19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
a. of section 6 of P.L.1970, c.39 (C.13:1E-6);
(h) with respect to an area of historic fill, the person has
demonstrated pursuant to a preliminary assessment and site
investigation, that hazardous substances have not been discharged;
and
(i) with respect to a properly closed sanitary landfill facility, no
person who owns or controls the facility receives, has received, or
will receive, with respect to such facility, any funds from any post-
closure escrow account established pursuant to section 10 of
P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
the facility.

Only the person who is liable to clean up and remove the
contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
23.11g) and who does not have a defense to liability pursuant to
subsection d. of that section shall be liable for cleanup and removal
costs.

u. No more than 180 days after the date of enactment of
P.L.2012, c.24, the board shall complete a proceeding to establish a
registration program. The registration program shall require the
owners of solar electric power generation facility projects
connected to the distribution system to make periodic milestone
filings with the board in a manner and at such times as determined
by the board to provide full disclosure and transparency regarding
the overall level of development and construction activity of those
projects Statewide.

v. The issuance of SRECs for all solar electric power
generation facility projects pursuant to this section, for projects
connected to the distribution system with a capacity of one
megawatt or greater, shall be deemed “Board of Public Utilities
financial assistance” as provided pursuant to section 1 of P.L.2009,
c.89 (C.48:2-29.47).

w. No more than 270 days after the date of enactment of
P.L.2012, c.24, the board shall, after notice and opportunity for
public comment and public hearing, complete a proceeding to
consider whether to establish a program to provide, to owners of
solar electric power generation facility projects certified by the
board as being three megawatts or greater in capacity and being net
metered, including facilities which are owned or operated by an
electric public utility and approved by the board pursuant to section
13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
designed to supplement the SRECs generated by the facility to
further the goal of improving the economic competitiveness of
commercial and industrial customers taking power from such
projects. If the board determines to establish such a program
pursuant to this subsection, the board may establish a financial
incentive to provide that the board shall issue one SREC for no less
than every 750 kilowatt-hours of solar energy generated by the
certified projects. Any financial benefit realized in relation to a
project owned or operated by an electric public utility and approved
by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
98.1), as a result of the provisions of a financial incentive
established by the board pursuant to this subsection, shall be
credited to ratepayers.

x. Solar electric power generation facility projects that are
located on an existing or proposed commercial, retail, industrial,
municipal, professional, recreational, transit, commuter,
entertainment complex, multi-use, or mixed-use parking lot with a
capacity to park 350 or more vehicles where the area to be utilized
for the facility is paved, or an impervious surface may be owned or
operated by an electric public utility and may be approved by the
board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).

y. (1) Notwithstanding any provision of this section, or any
rule or regulation adopted pursuant thereto, no later than one year
after the effective date of P.L.  , c.  (C. ) (pending before the
Legislature as this bill), the board, in consultation with the
Department of Environmental Protection, shall adopt, pursuant to
the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1
et seq.) a carbon emissions portfolio standard that requires all
power sold to customers in the State by electric power suppliers and
basic generation service providers be derived from energy sources that emit zero carbon by energy year 2050.

(2) The carbon emissions portfolio standard pursuant to paragraph (1) of this subsection shall:

(a) establish a multi-year schedule, applicable to each electric power supplier and basic generation service provider that provides power to customers in this State, setting forth gradual emissions reduction requirements to effectively transition to zero carbon emissions by energy year 2050;

(b) include provisions as may be necessary to mitigate leakage, or to transfer any customer to a basic generation service provider or electric power supplier that meets the carbon emissions portfolio standard;

(c) exempt the provision of basic generation service pursuant to a basic generation service purchase and sale agreement effective prior to the date of the adoption of the rules and regulations; and

(d) include any additional rules or regulations consistent with the board’s and the Department of Environmental Protection’s existing authority that may be necessary for the implementation of this subsection.

(cf: P.L.2018, c.17, s.2)

2. This act shall take effect immediately.

STATEMENT

This bill would require the Board of Public Utilities (BPU) to adopt an emissions portfolio standard that would eliminate carbon emissions from the power generation sector by 2050.

The BPU, in consultation with the Department of Environmental Protection (DEP), would be required to adopt the carbon emissions portfolio standard no later than one year after the effective date of the bill. The carbon emissions portfolio standard would include: (1) a multi-year schedule, with gradual emissions reduction requirements to require that all power sold to customers in the State by electric power suppliers and basic generation service providers be derived from sources that have zero carbon emissions; (2) provisions to mitigate leakage or to transfer any customer to a basic generation service provider or electric power supplier that meets the carbon emissions portfolio standard; (3) an exemption for basic generation service pursuant to a purchase and sale agreement effective prior to the date of the adoption of the rules and regulations; (4) any additional rules or regulations consistent with the board’s and the DEP’s existing authority that may be necessary for the implementation of the bill.